January 4, 2002

<u>BY FIRST-CLASS MAIL</u>

Gloria Blue
Executive Secretary, TPSC
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Re: <u>Steel, Inv. No. TA-201-073: Comments on Presidential Action (Remedy) Under Section 203(a) of the Trade Act</u>

Dear Ms. Blue:

Pursuant to the October 26, 2001, notice of the Office of the U.S. Trade Representative (66 Fed. Reg. 54321) and the deadline extension announced by USTR in these proceedings on December 28, 2001 (66 Fed. Reg. 67349), we hereby provide comments regarding actions the President should take with respect to a remedy pursuant to Section 203 of the Trade Act of 1974 in the above-captioned proceeding.

This submission is made on behalf of the Minimill 201 Coalition (Long Products), the Cold Finished Trade Coalition, and their individual members, who are domestic producers of various long products, including hot-rolled bar and light shapes, rebar, and cold-finished bar.

REQUEST FOR BUSINESS CONFIDENTIAL TREATMENT

The data shown in brackets in the text of this submission and in all exhibits is business confidential, and the parties providing it do not consent to disclosure. In accordance with 15 C.F.R. § 2003.6, we state that the enclosed bracketed data in this submission, including all exhibits, consists of trade secrets and should be protected from disclosure and given confidential treatment in its entirety. In particular, this information includes data such as import offers, market assessments, sales and pricing quotations, and other information the release of which could cause retaliation or business harm. As such, this information may not be disclosed, either individually or in aggregate, including to any parties who request information under the Freedom of Information Act. 18 U.S.C. § 1905.

This bracketed information is also business confidential commercial and financial information. Because this information is being submitted voluntarily, and is not normally released to the public, it should be considered exempt from any disclosure to third parties, pursuant to FOIA or otherwise. 5 U.S.C. § 552(b).

If you have any questions, please do not hesitate to contact us.

Respectfully submitted,

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I. EXECUTIVE SUMMARY

The International Trade Commission has found unanimously that imports of hot-rolled bar and light shapes, cold-finished bar, and rebar have seriously injured the domestic industries producing these products. This serious injury resulted from unprecedented import surges following a succession of financial crises in Asia, Russia, the CIS countries, and Latin America. The President must now address this problem, in perhaps the most significant Section 201 proclamation in the law's history, for in many respects the fate of the U.S. steel bar industry is at stake.

We urge the President to impose a remedial tariff on imports of hot-rolled bar, cold-finished bar, and rebar of at least 35 percent *ad valorem* in the first year, as recommended by Commissioners Bragg and Devaney. Only a substantial tariff increase will reverse the price declines that were the cause of the serious injury to these industries, and return them to operating profitability. Tariffs are preferred by the World Trade Organization ("WTO"), are easier to administer than quotas, and eliminate concerns about quantitative restrictions and potential resulting disruptions of supply.

A weaker tariff, such as the 20 percent duties (hot-rolled bar and cold-finished bar) and 10 percent duties (rebar) recommended by three Commissioners, will not provide adequate relief to these industries. Instead, this remedy would produce the same anemic result as the Wire Rod 201 remedy proclaimed two years ago: no relief, and thus further injury. Market conditions are still worsening, and low-priced bar imports have not retreated from the market. For example, rebar imports through November 2001 are already above levels for all of 2000, and are on pace to exceed the peak of the surge in 1999. A 10 percent tariff increase on rebar will not stem the tide of imports, since imports are currently underselling U.S. product by double to triple that amount and import offers have not slowed. Harm to hot-rolled, SBQ and cold-finished bar producers has also continued to mount, as demonstrated by the December 11, 2001, bankruptcy of Sheffield Steel and a sharp drop in domestic shipments of cold-finished bar. Well over half of all bar producers are currently suffering operating losses, and 2001 will prove to be the worst year <u>ever</u> for these industries. Foreign bar producers and importers will ignore or absorb a remedy that does not even approach current levels of import underselling. As stated by Ispat Inland at the Commission's remedy hearing:

> The relief you recommend must address the root problem identified in this investigation – price depression caused by surges of low-priced imports . . . . For that reason, a tariff rate increase of sufficient magnitude to reverse the price depression is the best choice.[1]

A 35 percent tariff would only raise domestic prices about two percent—an insignificant amount that will not harm end users or consumers. In fact, [

]. *See* Exhibit 4. Such relief will have no effect on consuming industries and will not send jobs overseas. It will, however, force increases in import prices, thus targeting the price depression that has forced U.S. bar producers like Republic, Riverview, and Sheffield into bankruptcy, and still others like CSC Ltd., GS Industries in Kansas City, Northwestern Steel and Wire, Qualitech and several Birmingham Steel facilities into closure.

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1 Remedy Hearing Transcript at 509-10 (Rogers), Inv. No. TA-201-73 (Nov. 8, 2001), (hereinafter "Tr. ").

An effective remedy must be imposed for four years in order to allow the domestic producers to recover from the sustained injurious effects of imports. It should include initiation of multilateral steel negotiations intended to lead to meaningful and binding commitments to reduce global excess capacity, and should assist shuttered companies in obtaining trade adjustment assistance for displaced workers.

The President's remedy should not favor some domestic producers over others through the use of industry bailouts or coverage of legacy costs. The proper purpose of a Section 201 remedy is to facilitate adjustment by the domestic industries in an economically beneficial manner. A tariff will best fulfill the statutory purpose by addressing the cause of the injury – increased volume of low-priced imports. The President's relief should target these surges of low-priced imports, rather than compensate companies for costs unrelated to those imports.

Adoption of the Bragg-Devaney remedy proposal would facilitate implementation of adjustment plans that would revitalize these industries, as set forth in our earlier submissions to the TPSC. If provided with adequate relief, rebar, cold-finished bar, and hot-rolled bar producers will make the necessary investments to improve their competitive position in the global market.

II. THE SERIOUSLY INJURED BAR INDUSTRIES REQUIRE A REMEDY THAT WILL DRAMATICALLY IMPROVE THEIR FINANCIAL PERFORMANCE

After perhaps the largest single investigation in its history, the Commission unanimously determined that the domestic hot-rolled bar, cold-finished bar, and rebar industries were seriously injured by imports. As the Commission found, these domestic industries have been devastated by the increases of low-priced bar imports, which resulted from the unforeseen global economic crises that occurred in Asia, Russia, the CIS countries, and Latin America.[2]

A. The Commission Vote and Report to the President Demonstrate the Need for Effective, Comprehensive Relief for Each of The Domestic Steel Bar Industries

Rebar: Rebar imports surged from 581,731 tons in 1996 to 1.8 million tons in 1999 and more than 852,000 tons in the first half of 2001 alone. *Steel* at 109 (public). Another surge from a different set of suppliers is now underway: for all of 2001, imports may exceed even the peak of the surge in 1999. Exhibit 1. These surges of low-priced imports led to "the industry's substantial financial decline, its decline in market share, and the shuttering of some production facilities." *Steel* at 109 (public). Average unit sales values fell steadily from 1997 through interim 2001. *Steel* at 110 (public). These lower prices eroded the operating profits of the industry. Operating income fell from $88.2 million in 1998 to a loss of $24.7 million in 2000, and capital expenditures plunged by about half.[3] Rebar production facilities have recently closed at Auburn Lemont, Birmingham (Joliet), North Star Kingman, Riverview, and Susquehanna. *Steel* at OVERVIEW 38-41 (public).

The Commission's analysis left no doubt that imports were the most substantial cause of the industry's serious injury:

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2 *Steel*, Inv. No. TA-201-73, USITC Pub. 3479 (Dec. 2001) ("*Steel*"). Citations to volume 1 (Determinations and Views of Commissioners) are indicated by "*Steel* at ___". Citations to volume 2 (Information Obtained in the Investigation) are indicated by "*Steel* at LONG-___." All citations are to the public version of the report.

3 *Steel* at 103-14 (public). The industry also performed worse in interim 2001 than in interim 2000. *Id.* at 94 (public). Given the seasonal nature of rebar sales, this means that the industry very likely posted even worse results for calendar year 2001 than for all of 2000.

> The increased imports put price pressure on domestic producers. This price pressure prevented domestic producers from fully achieving the benefits of cost reductions . . . and . . . from fully benefiting from the large increase in domestic consumption over the period examined. As a result, operating margins declined and by 2000 the industry's operating income was negative. (*Steel* at 112 (public)).

Indeed, the Commission stated that "{w}e can discern no reason other that the imports for the magnitude of price and average unit value declines during 1999." *Steel* at 113 (public.) The Commission found that neither competition among domestic producers nor changes in capacity were a significant cause of injury, and that the existing antidumping orders against various countries "do not detract from our conclusions concerning increased imports, serious injury to the domestic industry, or the linkage between that injury and the increased imports." *Steel* at 121-123 (public).

Hot-rolled bar: Imports of hot-rolled bar and light shapes increased more than 50 percent over the period of investigation ("POI"), from 1.7 million tons to 2.5 million tons, producing a collapse in domestic prices and profitability. *Steel* at 92 (public).[4] Prices have fallen for 3-1/2 years, coincident with the first surge of bar imports in 1998. The Commission reported "substantial declines in average unit sales volumes." *Steel* at 93 (public). The industry operated at a loss for all of 2000 and for interim 2001, with more than three-fourths of all firms reporting operating losses. While the industry earned operating income of $191.6 million in 1996, these profits fell to $124.1 million in 1999 and became an operating loss of $26.9 million in 2000.

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[4] The injury portion of the Report to the President, addressing long products, was joined by four of the six Commissioners (unless otherwise stated): Chairman Koplan, Vice Chairman Okun, Commissioner Miller, and Commissioner Hillman. *See Steel* at 79 n. 434 (public).

Steel at 94 (public). The industry's operating loss was $89.0 million in the first six months of 2001. *Id* (public).

Respondents concede that hot-rolled bar imports are not needed to meet domestic demand.[5] As such, when imports surged into the U.S. market, they did so at the expense of domestic sales and market share, driving down prices and profits. During the POI, this meant lost operating profits of approximately $350 million[6] and the shuttering of numerous hot-rolled bar producers, including Auburn Lemont, Birmingham (Cleveland, Joliet, and Memphis), CSC Ltd., Qualitech Steel Corp., and others. *Steel* at OVERVIEW 38-41 (public).

The Commission's final Report was unequivocal with respect to injury and causation:

> In light of the poor financial performance of the hot-rolled bar industry, the declines in output and shipments, and the numerous bankruptcies and plant closures that occurred during the latter portion of the period examined, with the consequent unemployment due to these closures, we conclude that the industry is seriously injured. The industry's financial condition . . . deteriorated rapidly after 1998. By 2000, 40 percent of producers had unprofitable operations and the industry as a whole experienced an operating loss. Industry financial performance continued to deteriorate in interim 2001. (*Steel* at 95 (public)).

The Commission also conclusively determined that increased imports were an important cause of the serious injury, and that no other causal factors were as substantial. *Steel* at 95-99 (public).

Cold-finished bar: According to the Commission, imports of cold-finished bar "showed a rapid and dramatic increase." *Steel* at 102 (public). Cold-finished bar imports increased from 206,272 tons in 1996 to 272,872 tons in 1998 and to 314,958 tons in 2000. *Id.* at 101 (public).

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5 *See* Prehearing Brief of Respondents from Europe, South Africa, and Turkey on Hot Rolled Bar and Light Shapes (Sept. 10, 2001) at 60 ("Bar Respondents' Prehearing Brief").

6 *See Steel* at LONG-33 (public).

The Commission also found that "{a}ggressive pricing by the imports during the latter portion of the period of investigation caused the domestic industry to lose market share and revenues." *Steel* at 105 (public). In short, the increased volume of low-priced imports led to declines in production, capacity, and capacity utilization. *Id.* at 102 (public). The industry's financial condition also dramatically worsened in the latter portion of the POI, with operating margins falling from 6.2 percent in 1998 to 1.2 percent in 1999 and to –0.1 percent in interim 2001. *Id.* at 103 (public). While no firms reported operating losses in 1996, 1997 or 1998, three reported losses in 1999, four in 2000, and nine reported losses in interim 2001. *Id., citing* Table-LONG-28 (public).

The Commission concluded:

> The most pertinent indicator of the industry's condition is its poor financial performance. The industry's . . . operating performance declined sharply in 1999 and continued to be poor in 2000. During both 1999 and 2000, the industry was only marginally profitable, with an increasing number of firms posting operating losses. Industry financial performance continued to deteriorate in interim 2001, when the industry sustained an operating loss.

Steel at 104 (public). The Commission also found that "{a}ggressive pricing by the imports during the latter portion of the period examined caused the domestic industry to lose market share and revenues. This resulted in the poor operating performance and serious injury discussed above." *Steel* at 105 (public). The Commission carefully documented how low import pricing dragged domestic prices and profits lower, and refuted that demand or domestic inefficiency were alternative causes of serious injury. *Steel* at 105-07 (public).

B. The President's Remedy Must Improve The Profitability of the Domestic Bar Industries

The President's remedy should be designed to remedy the harm that occurred when unforeseen import surges seriously injured the domestic bar industries. The remedy, in short, must significantly improve the profitability of the domestic bar industries. As the Commission stated in its determination:

> In general, the tariff-based remedies we are recommending are intended to increase domestic prices, shipment volumes, and industry profitability and therefore allow the domestic industries to make additional investments in the modernization and rationalization of their productive facilities. The recommended additional duty levels are also intended to help restore the market share of seriously injured domestic industries to the levels that existed prior to the import surges and maintain the market shares of industries threatened with serious injury. (*Steel* at 354 (public)).

The ITC's final determination provides pre-surge operating profit margins that should serve as a yardstick by which to measure the remedy. For example, the hot-rolled bar industry's operating margin was 5.4 percent in 1996 and 1997, compared with –6.4% in interim 2001. *Steel* at 99 (public.) The cold-finished bar industry reported an operating margin of 6.5 percent in 1997, as compared to an operating loss of –0.1% in interim 2001. *Id.* at 103 (public). The rebar industry's operating margin was 5.8 percent in 1998, but fell to –1.6 percent in 2000. *Id.* at 111 (public).

Thus, a return to 5-6 percent operating margins is the minimum necessary to "address the serious injury" caused by imports. A return to break-even operating results is plainly insufficient.

C. The Need for Decisive Relief Has Become Even More Compelling In Recent Weeks

The Commission's remedy recommendation was based on the investigation record as it existed on December 7, 2001. Since that time, however, additional events have demonstrated the need for swift and comprehensive relief in the bar products sector.

Rebar: It is now apparent that rebar imports are still increasing and are on track to reach an all-time high in 2001. Rebar imports peaked in 1999 at 1.8 million tons, and were 1.7 million tons for all 12 months of 2000. *Steel* at 109 & LONG-11 (public). For the first 11 months of 2001, despite the recent imposition of dumping orders on eight countries, rebar import levels were already at 1.6 million tons, or on pace for 1.75 million tons. *See* Exhibit 1. Even more tellingly, imports for the second half of 2001 (July through November) were more than 800,000 tons, or on pace for 1.93 million tons on an annualized basis. Given the seasonal nature of this product, it is highly unusual that so much rebar would surge in during the second half of the year. The surge involves both non-traditional suppliers as well as countries under antidumping orders who are absorbing duties. As noted by Mr. Selig at the Commission remedy hearing: "please know that right now the Koreans are paying the tariff that was levied in the antidumping case and bringing lots of rebar into the West Coast." Tr. 574.

Hot-rolled bar and light shapes: Sheffield Steel of Sand Springs, Oklahoma filed for Chapter 11 bankruptcy on December 11, 2001.[7] Sheffield manufactures hot-rolled SBQ and other bar products as well as rebar and fence posts, with a capacity of 600,000 tons of billets per year.

Cold-finished bar: Domestic shipments for July-October 2001 are off 22 percent from the same period in 2000, while imports for this period are off a mere 10 percent, according to AISI shipment data.

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[7] Scott Robertson, "Sheffield Steel pursues Chapter 11 shelter," American Metal Market, Dec. 11, 2001, attached as Exhibit 2.

III. THE PRESIDENT SHOULD PROCLAIM A FOUR-YEAR TARIFF INCREASE TO REMEDY THE SERIOUS INJURY

To correct the ongoing deterioration in the financial condition of the domestic bar industries and to permit a positive adjustment to import competition, we urge the Commission to recommend a four-year relief program based on a tariff rate increase of no less than 35 percentage points, as recommended by Commissioners Bragg and Devaney. Although we believe a 50 percent tariff rate increase is justified by record evidence, the Bragg-Devaney proposal is the minimum acceptable remedy.

A weaker remedy will do nothing to help these industries survive. This Administration should take note of the prior Administration's error in this regard, when it proclaimed a late, watered down remedy that failed domestic wire rod producers. As Jim Thompson, President of North Star Steel, stated at the long products injury hearing:

> {Y}ou may recall that I testified in the wire rod safeguard investigation two years ago. In reviewing the Commission's report in {that} case, I have to admit I was extremely concerned that some commissioners did not appreciate how seriously injured the rod producers were.
>
> Now, two years later, over 1.4 million tons of {wire rod} capacity has been shut down, and two additional companies are in bankruptcy.
>
> Regrettably, I was in this same room on Friday testifying before the ITC staff in the antidumping and countervailing suit we found ourselves forced to file due to the ineffective relief granted by the former president.[8]

As Commissioner Bragg pointed out, the remedy in *Wire Rod,* delayed and weakened by the former President, "provided no relief to the given domestic industry." *Steel* at 522 n.14 (public).

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[8] Hearing Transcript, Steel, Inv. No. TA-201-73 (Sept. 24, 2001) at 1307-08 (Thompson).

The Administration should avoid such a result by recommending a decisive, forceful remedy that would produce the price and revenue effects necessary to bring these producers back to health.

A. A Tariff, Not a Quota, Should Be Imposed

Five of six Commissioners recognized that a tariff, not a quota, is the preferable remedy in this situation. Chairman Koplan and Commissioners Miller and Hillman concluded that "tariff-based remedies will provide each industry with the most appropriate and easily-administered form of relief . . . while minimizing market disruption to that necessary to remedy injury and facilitating positive adjustment." *Steel* at 353 (public). These Commissioners specifically found that a tariff is less discriminatory against various foreign supply sources, more flexible in the event of demand shifts, and easier to administer. "Tariffs are thus more consistent with our mandate under the statute that requires us to recommend action that will 'address the serious injury.' " *Steel* at 354 (public).

Commissioner Bragg agreed that for the affected steel industries, "a tariff is the most administratively straightforward, efficient and effective way to provide the domestic industries with import relief." *Steel* at 522 (public). She also noted that a tariff

> avoids the potential for remedy circumvention and product-shifting. Given the vast number of countries and specialized products affected by the remedy, not to mention the unprecedented volume and value of trade in these products, any remedy must be administratively feasible. A tariff does not create the need or administrative burden for micro-managed implementation or monitoring global fairness on a quarterly or country-by-country basis. (*Id.*)

Even Respondents agree on this point. At the remedy hearing, Commissioner Hillman observed that it is "difficult" to administer a quota program, and that it requires a "tremendous mechanism." Tr. 665. Mr. Cunningham, counsel for Corus, described these observations as "absolutely right," and argued that quotas are "costly" and "cumbersome."[9]

Tariffs are also the preferred and least invasive remedy in safeguards investigations, according to recent WTO panel reports.[10] Article 6 of the Safeguards Agreement provides that provisional safeguard measures "should take the form of tariff increases."[11] The Safeguards Agreement demonstrates a recognition of "the overall detrimental effects of non-tariff border restrictions ... and the need to favor more transparent price-based, i.e., tariff-based, measures...."[12]

A tariff has several clear advantages over other forms of relief for the hot-rolled bar, cold-finished bar, and rebar industries:

First, a tariff remedy addresses the cause of the serious injury. Here, the serious injury was caused by increases of low-priced imports of hot-rolled bar, cold-finished bar, and rebar. Import prices plunged by $100 per ton or more during the POI, forcing domestic prices, sales volumes and profits lower. S*teel* at LONG-9-11 (public). The remedy for these lower prices is to increase the price of imports, not to restrict the amount of imports.

Second, a tariff is the simplest remedy to administer – every ton of incoming hot-rolled bar, cold-finished bar, and rebar is subject to the duty. In today's world, when the resources of

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9 Tr. 664.

10 *See, e.g., Turkey – Restrictions on Imports of Textile and Clothing Products*, Report of the Panel, WT/DS34/R (May 1999) at 116 n.290.

11 *Uruguay Round Agreements Act*, Agreement on Safeguards ("Safeguards Agreement"), art. 6, *reprinted in* Statement of Administrative Action ("SAA"), H.R. Doc. No. 103-316, vol. 1 at 1579 (1994).

12 *Turkey – Restrictions on Imports of Textile and Clothing Products* at 116.

the U.S. Customs Service are already stretched thin, this is no small consideration. The recent experience with wire rod is also instructive: the more complex the remedy, the more easily it can be manipulated or circumvented or, at the very least, the more confusion and market uncertainty it can cause.[13]

Third, a tariff is fair because all importers are treated alike. There is no rush to import products, such as typically occurs at the beginning of a quota or tariff-rate quota ("TRQ") period. In contrast, quotas drag prices down because "they are filled by the lowest priced imports, which depress domestic prices and revenues." Tr. 498 (Scott). A Corus representative confirmed this problem at the hearing: "{T}he vast majority of European bar imports are sold on a contract basis and enter the United States at regularly prearranged intervals to meet customers' needs. Faced with a single worldwide quota, these imports would not be able to beat low-priced commodity imports to the border." Tr. 609 (Hoye). In short, a quota encourages bottom-feeding and what Mr. Lane of Caterpillar described as "gaming of the system,"[14] while a tariff applies equally to all.

Fourth, tariffs, unlike quotas and TRQs, have a binding effect during a downturn, such as that currently being experienced by the steel bar industry. Tr. 498 (Scott); 548 (Commissioner Miller). As Mr. Price summarized, there is a problem with quotas whether demand is high or

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[13] *Certain Steel Wire Rod,* Inv. No. TA-201-69 (Final) (July 1999) at II-14 & n.22 (quoting an importer who indicated "mass confusion" about the TRQ program). *See also* Nancy E. Kelly, "Wire rod import cheaters to be hit with 10% duties," *American Metal Market*; Nancy E. Kelly, "Customs moves to curb quota dodgers," *American Metal Market*, Oct. 4, 2000.

[14] "For big companies with excellent buyers and first-class lawyers and above average lobbyists, we're going to probably be able to crowd out a lot of our domestic competitors, to one degree or another. We may even be able to gain {game} the system, so we can do better than some of our domestic competitors." Tr. 657-58 (Lane).

low. "{I}n periods of low demand they {quotas} have essentially no price or volume effect, and in periods of high demand the consumers can't get access to imports when they actually need it to fill demand." Tr. 539 (Price). Thus, tariffs are more appropriate because they are more sensitive to changes in demand than quotas or TRQs.

Fifth, tariffs also deny quota rents to the foreign producers, and thus provide "the strongest possible incentive for foreign producers to cut excess capacity." Tr. 499 (Scott). Global capacity reduction is an important objective of the President's Steel Action Plan, and the President's remedy should be tailored to complement this goal.

Finally, a tariff increase provides price relief without significantly reducing supply – particularly where, as here, the domestic industry has plenty of available capacity. There is no possible issue of short supply – customers can import all the product they need, as long as they pay the remedial tariff. Quotas on the other hand introduce distortion in the market. Mr. Lane of Caterpillar agreed at the Commission remedy hearing, stating that "{q}uota induced steel shortages have in the past, and could in this case, result in manufacturing inefficiencies and higher costs." Tr. 605.

B. The President Should Adopt No Less Than a 35 Percent *Ad Valorem* Tariff Increase, As Recommended by Commissioners Bragg and Devaney

Five of six Commissioners agree that a tariff-based remedy is best suited to returning industry profits and market share to pre-surge levels. While the recommendation regarding actual tariff levels is more fragmented, a careful review of the Commission's recommendations suggests that at least a 35 percent *ad valorem* tariff is appropriate and necessary.

The Commission's proposed 10 and 20 percent tariff increases will not return these industries to anything near their pre-surge conditions. Commissioner Bragg made this plain when she commented: "Importantly, I find that even the maximum remedy I am authorized by U.S. law to recommend to the President {i.e., 50 percent} would be insufficient to address the level of serious injury I found to exist . . ." *Steel* at 520 (public).

For example, a 10 percent increase in foreign rebar prices is not enough to offset the underselling that is already taking place, when underselling by non-NAFTA imports is more than twice that amount. *See Steel* at LONG-90 (public). The Commission has not yet released any economic models to support a lower level of relief on rebar,[15] but a higher initial tariff increase is needed to have any effect on the market at all. Commissioner Bragg noted in particular that a 35 percent tariff rate increase is more likely to accomplish this goal: "the tariff levels are expected to result in price increases sufficient to offset margins of underselling and encourage modest domestic price increases, and at the same time controlling import volumes." *Steel* at 525 (public.) Given the ongoing surge in rebar imports, which appears likely to exceed even the import peak of 1999, the rebar tariff level should not be any less than that for other bar products. Product-shifting is also a danger if there is any differential among the respective tariff items. Any differential will also raise the danger of product-shifting from higher tariff items to lower tariff items, since many producers make several of these bar products.

Importantly, a 35 percent tariff rate increase will <u>not</u> mean a 35 percent increase in <u>import prices</u>. Our modeling of a 50 percent tariff projected a 36 percent increase in import prices, but only a 2 to 4 percent increase in domestic prices. A 35 percent tariff would have an even smaller impact. *Steel* at 376-77 (public). Commissioners Bragg and Devaney recognized that even a 35

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[15] On January 3, 2002, USTR specifically requested release of this information in its request to the ITC for additional information.

percent tariff increase will result in only "modest price increases and import volume control." *Steel* at 525 (public). This small increase is justified, as it will return import prices to pre-surge levels with only a minor effect on prices paid by customers.

Hot-rolled bar: Import values for hot-rolled bar from non-NAFTA countries fell from $679 per ton in 1996 to $459 per ton in the first half of 2000, a decline of 32.4 percent, and about 18 percent for the entire POI. *Steel* at LONG-9 (public). Because a portion of the duty increase would be absorbed by importers, a 35 percent tariff rate increase would bring import prices closer to their levels at the beginning of the POI; a 20 percent tariff rate increase would not.

Rebar: Non-NAFTA import values fell 30 percent from 1996 to interim 2000, and 25.3 percent from 1996 through interim 2001. *Steel* at LONG-11 (public). For one of the most common rebar products (ASTM A615, Nos. 4 and 5, grade 60), non-NAFTA import prices fell from $329 per ton in fourth quarter 1996 to $218 per ton in second quarter 2001, or a 33.7 percent decrease! *Steel* at LONG-90 (public). Throughout this period, non-NAFTA imports were underselling U.S. producers by 20 percent or more. *Id* (public).

Thus, a 35 percent tariff rate increase would simply return these import prices to pre-surge levels. A 10 percent increase, as proposed by three Commissioners, would not provide meaningful relief because non-NAFTA imports would still be substantially underselling U.S. producers.

Cold-finished bar: The weighted average price of all non-NAFTA cold-finished bar imports declined by 21.4 percent during the POI. *Steel* at LONG-98 (Table LONG-99) (public). Non-NAFTA import prices for one of the more popular cold-finished bars declined from $761.53 in the first quarter of 1996 to $582.70 in the second quarter of 2001, a decrease of $178.83 or

23.5 percent.[16] *Steel* at LONG-89 (Table LONG-82) (public). To increase the 2001 import prices by $178.83, i.e., to 1996 levels, they must increase by 30.7 percent (178.83 / 582.70). A 20 percent *ad valorem* tariff applied to the customs value of these imports would not fully reverse these price trends. For example, a 20 percent tariff applied to the average customs value of cold-finished bars imports in 2000 would only cause a price increase of $134 (20% of $668). To return the imports to their previous pricing levels, an *ad valorem* duty of at least 35 percent must be imposed because a portion of any tariff will be absorbed by the importers.

In sum, the proposed 35 percent tariff remedy generally returns bar import prices to their pre-surge levels. And, as discussed earlier, domestic prices would only increase a modest 2 percent, because of the excess capacity available at U.S. bar mills today.

A 35 percent tariff rate increase is also justified because many foreign producers will simply absorb some of the tariff and continue to ship to the United States. A 20 percent tariff rate increase (10 percent for rebar) will simply be absorbed by many importers – including the worst offenders during the recent import surges. In this regard, the only Commissioner who did not recommend a tariff, Vice Chairman Okun, chose a quota precisely because tariffs were more likely to be "eaten" by importers or offset by foreign currency devaluations. *Steel* at 437 (public); OVERVIEW-60 (showing 16 major steel producing countries who benefited from currency devaluations during the POI).

Evidence of duty absorption has been apparent in recent steel antidumping investigations. For example, in 2000 the Commission and the Department made affirmative determinations of

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16 Similarly, the average unit value (AUV) of non-NAFTA imports declined by $161 per ton from 1996 to 2000. *Steel* at LONG-10 (public). The $161 decline amounts to approximately 24.1 percent of the average customs value of imports during 2000.

dumping and injury against imports of structural steel beams from Korea. The final dumping margins ranged from 25 to 49 percent. However, these margins have not kept Korea from increasing its shipments of low-priced imports into the U. S. market. As Dan DiMicco testified at the injury hearing, Korean producers "are again shipping product, making offers $80 a ton below domestic prices and eating the duties." Tr. 1299-1300.[17]

This is not an isolated phenomenon. At the Commission, Turkish respondents conceded that a low tariff increase will not be sufficient to provide relief:

> It is likely that in these investigations, as in *Certain Welded Carbon Quality Line Pipe*, the Commission's economic analysis will show that a tariff at relatively low levels would not be sufficiently restrictive to restore the domestic industry to reasonable levels of profitability.[18]

This extraordinary statement comes from Turkish bar producers, who have absorbed rebar duties for years. Despite duties averaging 10-15 percent, Turkish rebar imports reached 189,000 tons during the last 12 months of the POI, and accounted for 11.8 percent of all imports. *See* Exhibit 1.

A higher remedial tariff rate is also necessary because of cyclical demand for bar products. Demand for these bar products is tied to construction demand and general economic demand, which have already peaked. In a market where demand is weak, it will be more difficult to support higher domestic prices. *Steel* at 523-24 (public). Thus, a remedial tariff would have to be higher during such a period just to achieve the same result for the industry. The lower remedy recommendation does not take this into account.

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17 "Korean beams offered on West Coast despite US duty burden," *American Metal Market*, Sept. 24, 2001.

18 Turkish Respondents' Prehearing Remedy Brief at 2 (Oct. 29, 2001).

C. A 35 Percent Tariff Rate Increase Would Have Positive Effects On the Domestic Industry, Other Domestic Industries, and Consumers

The remedy recommendation of Commissioners Bragg and Devaney would address the serious harm suffered by the bar industries, while minimizing any negative effects on downstream industries and ultimate consumers. In particular, the remedy ensures that no shortages of hot-rolled bar, cold-finished bar, or rebar will occur in the domestic market, and would have only a very modest effect on the cost of finished products made from steel bar.

1. The Projected Effect on the Domestic Bar Industries Would Be Beneficial

Our modeling of a 50 percent tariff increase projected revenue increases of 13 to 18 percent for these industries. A 35 percent increase would increase revenues, but to a lesser degree.[19] The tariff would also lead to a modest increase in domestic prices, and a higher increase in import prices, necessary to offset the drastic price cuts that occurred throughout the POI. Production, sales, and capacity utilization would improve. Higher production levels would further improve profitability due to decreases in fixed costs per ton. And a four-year remedy would encourage implementation of the producer adjustment plans, which in turn would lead to increased employment and improved productivity.

2. The Effects on Steel Consuming Industries Would Be Minimized

The proposed 35 percent tariff increase addresses the fundamental concern of bar customers: inability to obtain supply. A tariff, by its very nature, does not restrict supply; it only affects the price one must pay to obtain the merchandise. Moreover, the equal application of the

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19 In its January 3, 2002, request for additional information, USTR asked ITC to provide, among other things, all of its economic modeling. We intend to provide further comments after reviewing these models and model results.

tariff to all countries (except for Mexico and, with respect to rebar, Canada) ensures that competitors will not obtain unfair market advantages on these products. The remedy will not foster price discrimination among suppliers.

Notably, the price effects of the remedy on domestic end-users of the product are also limited. First, the significant excess capacity available to domestic bar producers means that the primary effect of the remedy will be to increase domestic industry production and market share rather than to raise domestic prices. Hot-rolled bar producers have more than 3.5 million tons of domestic capacity available. *Steel* at LONG-30 (public). As Respondents have conceded, not a single ton of imports is needed to meet domestic demand.[20] Similarly, cold-finished bar capacity utilization never exceeded 50 percent during the entire POI, and again, no imports are needed to meet U.S. demand. *Steel* at LONG-22 (public). Finally, the rebar industry has approximately 3 million tons of excess capacity, which is well in excess of total imports. *Steel* at LONG-23, LONG-11. (public). Thus, while prices will increase, the primary effect will be to return domestic steel bar production and sales to higher levels. Customers will not suffer any reduced supply; their source of supply will merely shift from foreign to domestic.

3. There Would Be Minimal Downstream Consumer Effects

Similarly, any negative effects on final consumers of downstream steel bar products resulting from the remedy should be marginal at most. Hot-rolled bar, cold-finished bar, and rebar are used primarily in the construction industry and in the automotive sector. Bar products generally comprise a small share of the final production cost of the goods into which they are incorporated. Earlier in the POI, for example, steel costing $600 per ton in a $20,000 automobile

[20] *See* Bar Respondents' Prehearing Brief at 60.

had no discernable negative impact on the international competitiveness of U.S. automakers. As calculated by the American Iron and Steel Institute, a 15 percent increase in steel prices results in only about a one-half percent increase in the price of an automobile. Tr. 511 (Rogers). Since bars constitute a small portion of the total steel in an automobile, a 35 percent tariff rate increase would raise automobile prices less than one-tenth of a percent.

The forecasted changes in bar prices will have only a modest effect on the price of construction projects, automobiles, and finished machinery. Indeed, [

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] Any modest short-term costs are outweighed by an important long-term benefit: the survival of these domestic industries. Failure to implement significant tariff relief would not only cause further serious injury to the domestic industries, but would harm the users of these bar products – and ultimately consumers – by removing their largest and closest source of supply, causing prices to increase over the long term.

21 Letter from [ ], Exhibit 4.

D. The Tariffs Should Be Imposed for, and Reduced Gradually Over, Four Years

1. A Four-Year Period of Relief is Essential to Give the Industry the Ability to Implement the Adjustment Plan

Five of the six Commissioners recommended that tariffs be imposed for four years. *Steel* at 20. The injury to the domestic bar industries is severe, requiring a full four-year period for producers to recover and to bring their adjustment plans into effect.

Most of the capital investment projects described in producers' adjustment plans require time for board approval, acquisition of financing, installation, testing, and start-up operations. As Commissioner Bragg noted in her questioning at the remedy hearing, four years of relief is required to develop and produce many new types of steel bar technologies. Tr. 541. Ted Thielens of Republic noted that his company's R&D facility was working on new automotive products that would not be installed in vehicles until the 2005 model year. Tr. 541. Indeed, much of the serious injury suffered by the domestic industries occurred when capital investments committed in the mid-1990s came on-line in 1998 and 1999, just when the surges of imports led to price erosion and reductions in domestic orders. For the most part, capital investment has been suspended and cannot be restarted without some guarantee of extended relief.

Domestic bar producers have submitted to USTR detailed adjustment plans that list specific actions that the industry intends to pursue during a period of import relief.[22] For companies needing to make capital investments, four years of significant relief (*i.e.*, at least a 35 percent tariff) will provide a window of opportunity for these much-needed upgrades. And for companies that have already made substantial investments, four years of relief will allow these

[22] Letter to Gloria Blue from the Minimill 201 Coalition (Long Products) and the Cold Finished Trade Coalition, Nov. 5, 2001.

firms to begin earning a reasonable return on these investments and to increase production to planned, cost-efficient levels. Many others may plan to begin trial production, qualification, or production of commercial quantities of new bar products. A four-year remedy plan will allow pursuit of these opportunities, and bring order to these markets after a time of unprecedented chaos.

2. The Relief Should Be Reduced Gradually Over Four Years

The President has discretion to determine the appropriate scope and phasing of the remedy.[23] We believe that the proposed remedy of Commissioners Devaney and Bragg is appropriately degressive, with tariff rates of 33 percent in year two, 31 percent in year three, and 26 percent in year four. These levels of degressivity are consistent with recent remedy proclamations. For example, in *Wire Rod*, the President proclaimed a TRQ that decreased only two percentage points in every year.

E. Treatment of NAFTA Imports

Given USTR's January 3, 2002, request for additional information pursuant to section 203(a)(5) of the Trade Act, which specifically addressed the treatment of NAFTA imports, we reserve comment on this issue until after the Commission's supplemental report to the President.

F. The President Should Include CBERA Beneficiary Countries in the Remedy

The President should apply any remedy to CBERA beneficiary countries.[24] The primary concern in this regard is Trinidad and Tobago, the location of Caribbean Ispat Limited ("CIL"), a significant bar and rebar producer. Caribbean Ispat is part of Ispat International, which is owned

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23 *See* H.R. Doc. No. 103-826(1), vol. 1 at 131, 1994 U.S.C.C.A.N. 3773, 3903.

24 Only Commissioner Devaney made such a recommendation. *Steel* at 20 (public).

by the global steel conglomerate LMN Group. LMN also owns steel mills in Germany, India, Indonesia, Canada, France, Kazakhstan, Indonesia, Luxembourg, Belgium, and Italy.

Caribbean Ispat Limited is the largest steelmaker in the Caribbean as well as the largest non-oil industrial complex in Trinidad and Tobago. According to its own website, it has the capacity to produce 800,000 tons per year of "wire rods and rebars."[25] Although most of CIL's shipments to the United States are wire rod, it did send 10,000 tons of rebar in 2001. See Exhibit 1. Thus, to avoid any possibility of a surge of rebar imports from Trinidad, CBERA countries should be included in the remedy.

G. All Developing Countries Should Be Included in the Rebar and Hot-Rolled Bar Remedies

Article 9.1 of the WTO Agreement on Safeguards states that remedies should not be made applicable to products from developing countries as long as the share of imports of the product concerned does not exceed three percent, provided that developing countries with less than three percent import share collectively account for no more than nine percent of total imports.[26]

Developing countries play an important role with respect to production of rebar, hot-rolled bar and light shapes. Import data for the most recent 12 months (December 2000 through November 2001) show that the collective rebar import market share of all developing countries with less than three percent is more than 14 percent, easily exceeding the nine percent threshold. *See* Exhibit 3. For hot-rolled bar and light-shapes, the import data for the last 12 months also show that total share of all developing countries with less than three percent share is greater than

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[25] Available at http://www.ispat.com/default.asp?langId=en&id=prod_sol_wirerod

[26] Safeguards Agreement, art. 9.1, *reprinted in* SAA at 1581.

nine percent.[27] As such, the President should apply the remedy to all developing country imports of rebar or hot-rolled bar and light shapes.

H. The President Should Act Rapidly to Prevent Another Import Surge

The President has approximately 60 days to proclaim a remedy for these industries.[28] However, the President may act sooner. If practicable, we urge the President to proclaim a remedy at the earliest possible time, because rapid action would reduce the possibility of another surge of steel bar imports just before any remedy takes effect.

Now that the Commission has made its report to the President, global steel importers will attempt to "beat the remedy" on those products subject to affirmative determinations. Foreign producers and importers have every incentive to export every ton of hot-rolled bar, cold-finished bar, and rebar that they have – and even to drain inventories and divert home market sales – to increase U.S. shipments prior to the date of any Presidential remedy proclamation. In fact, this is happening already: several such offers are included at Exhibit 6.

A pre-remedy surge of bar imports will further harm these industries and would undermine any remedy. An accumulation of bar products throughout the distribution chain would reduce the beneficial effect of the tariff on prices and profitability, potentially for a year or more, just as it did in the wire rod industry. In this investigation, the build-up of inventories

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27 *See id.* The November 2001 data is preliminary, rather than final. If total imports fall fractionally below nine percent as of the proclamation date, the President should specifically recommend that these ratios be reviewed quarterly and that the hot-rolled bar remedy should be applied immediately to all developing countries as soon as such imports again collectively exceed nine percent.

28 19 U.S.C. § 2252(f)(1) (report by Commission), *id.* § 2253(a)(4)(A) (2001) (action by President). The January 3, 2002, Presidential request for additional information from the Commission extends the proclamation deadline until 30 days after the Commission's supplemental report. *See id.* § 2253(a)(5).

prior to the remedy date would render the proclaimed remedy ineffectual. This is a serious concern given the precarious state of the domestic bar industries, which have already suffered multiple bankruptcies and innumerable forms of serious injury. If a remedy does not produce fairly rapid results, other companies will surely be forced to shutter.

For all of these reasons, we ask that the President proclaim a remedy as expeditiously as possible.

I. Relief Should Not Include Bailouts or Coverage of Legacy Costs

The President's remedy should not include coverage of legacy costs incurred by the minority of domestic producers with unfunded health and pension costs, either through the use of tariff remedies, taxes, subsidies, or other methods. Coverage of legacy costs would simply open the President's proclamation to immediate and unnecessary WTO challenge.[29] Prior to the import surges, integrated steel producers were able to cover their legacy costs. If import prices are restored to pre-surge levels through temporary tariffs, these producers will be able to increase sales and prices and once again cover these costs.

The Commission's remedy recommendation did not include any specific actions on legacy costs. *Steel* at 356-58 (public). While several Commissioners discussed legacy costs in general, no Commissioner recommended that the President include coverage of legacy costs in the remedy. Indeed, Vice Chairman Okun stated that, in her view, "the President does not have current authorization to implement these proposals."[30]

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[29] If anything, a better use of any duties collected would be to create a compensation fund with which the United States could compensate other WTO Members for a fourth year of remedy relief.

[30] *Steel* at 445 (public). *See also id.* at 559 (public) (Devaney) ("It is not clear that this recommendation falls within the purview of Section 202(e)").

J. Other Remedy Elements

The remedial *ad valorem* tariff should be the centerpiece of the President's remedy. This relief is essential to the future of the domestic steel bar industries, and cannot be replaced by any non-tariff measure. Nonetheless, the President's remedy should include several additional elements.

1. The Administration Should Continue Global Steel Negotiations

The President has already indicated that he considers the Section 201 investigation as part of his "comprehensive initiative to respond to the challenges facing the U.S. steel industry."[31] Another aspect of this Administration initiative is "negotiations with our steel trading partners to reduce excess global steel capacity and to establish additional disciplines on subsidies and other market-distorting practices."[32] These negotiations should not involve discussions regarding the weakening of U.S. unfair trade laws. Similarly, any Presidential remedy proclamation should not involve any limitations on the right of domestic producers to file new unfair trade cases or otherwise seek enforcement of U.S. unfair trade laws. Instead, the negotiations should target meaningful and binding commitments to reduce excess capacity.

2. The President Should Take All Necessary Steps to Ensure That Workers at Shuttered Steel Mills Receive Trade Adjustment Assistance

The Commission's affirmative determinations mean that firms or workers who apply for trade adjustment assistance will receive expedited treatment. *Steel* at 356 (public). Although trade adjustment assistance cannot address the industry's fundamental problems, it can at least

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31 Letter from U.S. Trade Representative Robert B. Zoellick to The Honorable Stephen Koplan (June 22, 2001) ("Zoellick Letter") at 1.

32 Zoellick Letter at 2.

offer assistance to those workers who have already lost jobs. However, we also believe the President should do more in this area, taking any steps necessary, including amendments to the TAA statute, to ensure that workers at closed facilities are quickly certified for TAA benefits.

In her remedy recommendation, Vice Chairman Okun noted that "only a few steel firms have received assistance under this program," and highlighted several potential changes to the law. *Steel* at 440-42 and nn. 54-55 (public). One recent example demonstrates the problems with the current TAA program. The Department of Labor initially failed to certify Northwestern Steel & Wire Company's 1400 workers for TAA benefits, inappropriately concluding that imports did not contribute importantly to the worker terminations. The Department of Labor made this finding despite overwhelming evidence from recent beams antidumping investigations and this 201 investigation that imports harmed Northwestern and other domestic producers. Although Northwestern was certified after reconsideration of the decision, the resulting delay caused needless harm to Northwestern's former employees.

Thus, although TAA benefits are no substitute for meaningful tariff relief, we urge the President to take further action with regard to the TAA program, including proposed legislative improvements.

3. The President Should Proclaim a Comprehensive Steel Monitoring Program

The President should address the problem of import misclassification and undervaluation proactively, by recommending the establishment of a comprehensive monitoring program by Customs as an integral part of any remedy. This monitoring program should include an "early warning system" with respect to import pricing, classification, and valuation, to ensure that tariffs are being properly assessed and collected at the time of importation.

Monitoring is essential even with a tariff remedy, although a quota or TRQ is prone to far greater circumvention. As Commissioner Bragg noted, problems of misclassification and circumvention have plagued "almost any product we look at in a 201 case," Tr. 546, including (most recently) steel wire rod and wheat gluten. Such a program would include more intensive surveillance by the U.S. Customs System and specific training of Customs officials with regard to steel products subject to the remedy, as advocated by the Steel Manufacturers Association. Tr. 545.

IV. PRODUCT EXCLUSIONS SHOULD BE MINIMIZED, PARTICULARLY FOR LONG PRODUCTS

The Commission's recommended remedy did not include any product-specific exclusions on long products. *Steel* at 355 (public). In fact, the Commission pointed out:

> In this investigation the domestic producers have maintained, with limited exceptions, that they currently produce or are able to produce the products covered by the exclusion requests. Consequently, the record does not support the conclusion that the great majority of products for which exclusions are sought are not available from the pertinent domestic industry. (*Id.* (public))

The Commission is correct. As set forth in detail in the December 5, 2001, submissions of the Minimill 201 Coalition and the Cold Finished Trade Coalition to USTR, the vast majority of these products are made domestically, can be made from billets, or can be made if economic conditions permit a reasonable return on investment.[33] In particular, we note again that because ingots, billets and blooms are not subject to the remedy, these semifinished long products can be imported without restraint for rolling into products not otherwise available domestically. This is a critical difference between the flat product and long product exclusion requests, which requires

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[33] We incorporate our December 5, 2001 submissions to USTR by reference.

that USTR treat any long product requests with a particularly critical view. A simple claim that the domestic industry *does not currently* make the product, or that only one or two domestic suppliers currently exist, is patently insufficient.

The Coalition does not object to legitimate exclusions, if an appropriate product definition is agreed to by all parties. For example, we are not currently aware of any domestic producer that objects to Caterpillar's exclusion request for rippershank. We are willing to consider other appropriately tailored requests, although, as stated in our earlier submission, the vast majority of exclusion requests submitted to USTR are both overbroad and unnecessary.

Finally, we note that exclusion requests have been made with respect to certain semifinished products, such as billets, whose tariff classification is as a flat product, rather than a long product. We oppose such requests. The Commission conducted its injury investigation based on the scope description and tariff classifications set forth early in the process. We must assume that these products were reported properly by all producers during the investigation. Based on this data and all other record evidence, the Commission found that semifinished flat products were seriously injured, while semifinished long products were not. The time has long passed for any party to now claim that a particular steel item is a long product rather than a flat product.

V. ADJUSTMENT PLAN AND INDUSTRY COMMITMENTS

The U.S. hot-rolled bar, cold-finished bar, and rebar industries have already expended hundreds of millions of dollars, as well as substantial time and resources, to improve their competitiveness during the five-year period of investigation.[34] However, they have also committed to aggressive adjustment plans during a period of temporary import relief, as set forth in our earlier Adjustment Plan submissions to the TPSC.[35]

In its final determination, the Commission noted that these adjustment plans would help the industries to make a positive adjustment to import competition. *Steel* at 358, 361 (public). The industries will make needed investments to improve their competitive position – and will work to ensure the profitability of their recent large investments. The adjustments will ensure that the industries achieve world-class competitiveness and are properly positioned to thrive once world markets return to more normal conditions.

The only concern raised with the adjustment proposals is that they could add capacity to the U.S. market, at a time when global capacity reductions are essential. *See Steel* at 440 (public). We disagree. Very few of these proposals would specifically add new production capacity; the vast majority are focused on efficiency, cost reduction, productivity, or new product lines not currently manufactured. Moreover, each producer submitted its adjustment plan independently of its competitors. It is likely that when companies announce their investment programs, other companies will reevaluate their plans and may delay, revise, or abandon their investment plans if indicated by market conditions. The market simply will not allow investments that do not promise a reasonable rate of return.

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34 *See Steel* at OVERVIEW-44-47 (public) (major capital investments of U.S. steel companies).

35 We incorporate the November 5, 2001, adjustment plans filed separately by the Minimill 201 Coalition and the Cold Finished Trade Coalition by reference.

As part of the adjustment process, the long products industry has already lost – and will continue to lose – capacity. Since the Commission compiled its data on production capacity in the fall of 2001, Ispat Inland announced the closure of its 21-inch bar mill at its East Chicago mill. *Steel* at 440 (public). This closure represents approximately 950,000 tons of capacity. In addition, Republic Technologies International has closed blast furnaces representing 350,000 tons of capacity, and has reported that it is considering shutting down permanently a blast furnace and rolling mill at its Lorain facility. There will almost certainly be other reductions in capacity as well, regardless of what remedy the President proclaims.

As a whole, the adjustment commitments are ambitious, but they are also specific and achievable, if the safeguards remedy adopted by the President is meaningful and effective. Sustained operating profitability during the relief period will allow producers to implement these adjustments, equipping them to compete effectively in the global steel bar marketplace.

VI. CONCLUSION

For all of the foregoing reasons, we respectfully request that the President proclaim a four-year tariff rate increase, with an increase of at least 35 percent *ad valorem* in the first year, and the other remedial actions detailed in this brief.

Respectfully submitted,

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EXHIBITS

1 2001 Rebar Import Statistics

2 Scott Robertson, "Sheffield Steel pursues Chapter 11 shelter," *American Metal Market*, Dec. 11, 2001.

3 Developing Country Negligibility Calculations

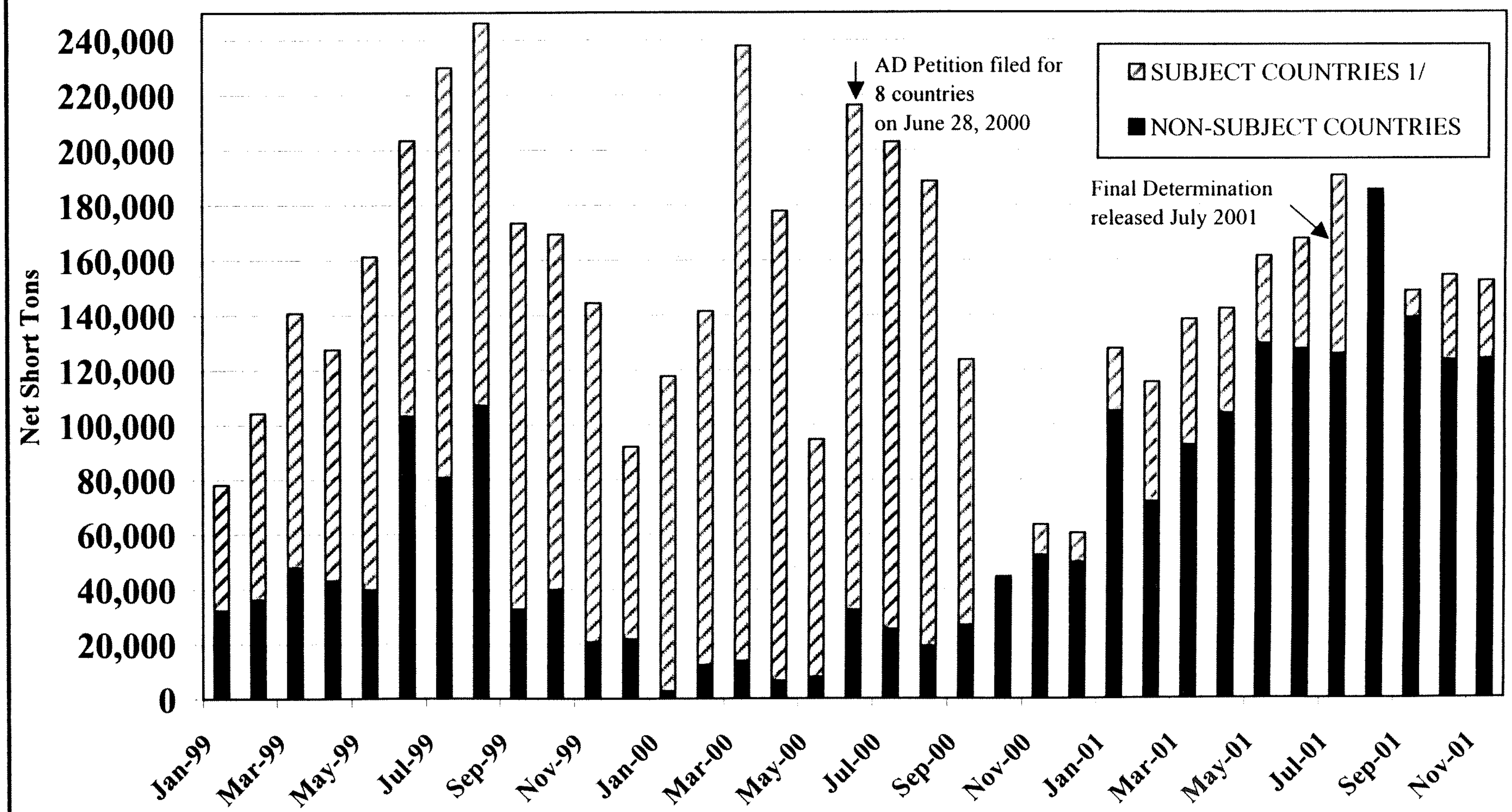
4 Letter from [ ]

5 Robert Guy Matthews, "Steel Smugglers Pull Wool Over the Eyes of Customs Agents to Enter U.S. Market," *Wall Street Journal*, (Nov. 1, 2001).

6 Sample Import Offers for First Quarter 2002

EXHIBIT 1

U.S. Imports of Steel Concrete Reinforcing Bar: Winning the Battles and Losing the War -- Non-Subject Countries Rush to Fill the Gap



[1/]Includes countries subject to AD orders as of 01/01/02: Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, Turkey, and Ukraine.

Source: From official import statistics of the U.S. Department of Commerce, Bureau of the Census.

U.S. Consumption Imports of Straight Length
Steel Concrete Reinforcing Bars (2000, YTD 2001)

	Oct-00	Nov-00	Dec-00	2000 Year	Jan-01	Feb-01	Mar-01	Apr-01	May-01	Jun-01	Jul-01	Aug-01	Sep-01	Oct-01	Nov-01	12 Months	Share
JAPAN	-	-	-	25,355	-	-	-	10,460	35,961	46,874	51,754	61,070	43,371	50,832	68,216	368,537	22.91%
MEXICO	4,133	5,631	2,933	46,993	3,193	3,409	16,069	4,762	20,182	24,937	22,072	28,442	40,467	19,613	6,448	192,527	11.97%
TURKEY	-	11,258	7,522	179,296	12,562	17,084	16,042	12,193	25,588	20,806	29,237	-	-	20,212	28,598	189,844	11.80%
ITALY	-	-	7,752	7,752	-	32,912	7,024	21,183	15,613	5,572	-	26,511	-	-	13,743	130,310	8.10%
SOUTH KOREA	-	-	3,307	263,601	10,353	26,307	24,266	26,070	6,432	19,531	-	-	-	-	-	116,265	7.23%
SPAIN	-	4,891	24,865	29,756	44,630	-	11,155	-	2,592	-	-	2,288	-	-	-	85,530	5.32%
MALAYSIA	-	-	-	-	-	-	-	-	3,594	-	6,759	37,030	-	22,992	4,715	75,090	4.67%
VENEZUELA	10,804	6,308	12,789	29,902	15,753	3,154	3,569	-	3,528	993	4,770	10,987	-	3,395	8,105	67,043	4.17%
GERMANY	16,509	-	-	24,276	7,575	-	11,438	5,657	13,337	294	-	5,483	10,142	6,886	650	61,464	3.82%
CZECH REPUBLIC	-	-	-	-	-	8,208	16,253	12,329	-	568	22,029	-	-	-	-	59,387	3.69%
RUSSIA	7,590	9,816	-	35,378	2,901	4,591	-	8,896	-	10,437	2,222	5,201	2,437	2,033	-	38,717	2.41%
SINGAPORE	-	-	-	-	5,514	-		-	-	-	-	-	24,086	-	-	29,599	1.84%
BRAZIL	-	-	-	29,581	11,273	7,933	-	7,717	-	-	-	2,323	-	-	-	29,246	1.82%
POLAND	-	-	15	69,292	43	89	94	96	-	9	16,710	-	9,843	-	-	26,899	1.67%
ROMANIA	-	4,182	-	4,182	-	3,336	-	-	-	4,243	-	2,385	6,652	-	9,518	26,134	1.62%
EGYPT	-	-	-	-	-	-	-	10,509	-	-	-	-	-	-	10,838	21,347	1.33%
LUXEMBOURG	-	-	-	-	10,414	-	4,867	-	-	-	-	-	-	-	-	15,281	0.95%
FRANCE	-	-	-	-	-	-	-	-	-	-	13,435	-	-	-	-	13,435	0.84%
TAIWAN	4,990	10,684	-	15,717	-	-	-	-	-	-	-	-	-	10,904	-	10,904	0.68%
LATVIA	-	-	-	207,705	-	-	-	-	-	-	-	-	-	10,866	-	10,866	0.68%
TRINIAD & TOB.	-	-	-	11	2,658	1,873	3,307	-	1,219	1,090	-	-	-	-	-	10,146	0.63%
DOMINICAN REP.	-	-	-	-	-	-	-	-	-	-	-	-	93	6,089	1,245	7,427	0.46%
BULGARIA	-	-	-	-	-	-	-	-	-	-	-	-	7,089	-	-	7,089	0.44%
SOUTH AFRICA	-	6,122	-	6,122	-	-	-	4,451	-	-	-	-	-	-	-	4,451	0.28%
THAILAND	-	3,847	-	5,112	-	-	1,081	-	2,746	-	-	-	-	-	-	3,827	0.24%
ARGENTINA	-	-	-	-	-	-	-	-	-	-	-	3,364	-	-	-	3,364	0.21%
CANADA	71	-	63	1,791	142	136	21	182	271	324	206	127	103	98	71	1,744	0.11%
BELGIUM	-	-	-	-	-	-	-	-	-	-	-	-	1,007	-	-	1,007	0.06%
EL SALVADOR	461	655	624	1,740	32	63	13	-	-	-	-	-	-	-	-	733	0.05%
CHINA	-	109	-	163,124	-	-	-	7	40	-	-	-	-	-	-	47	0.00%
UNITED KINGDOM	-	-	-	-	-	2		-	-	-	-	-	-	-	35	37	0.00%
SWITZERLAND	-	-	-	21	-	-	-	-	-	-	-	-	-	18	-	18	0.00%
AUSTRIA	12	-	-	4,646	-	-	-	-	-	-	-	-	-	-	8	8	0.00%
UKRAINE	-	-	-	168,054	-	-	-	-	-	6	-	-	-	-	-	6	0.00%
MOLDOVA	-	-	-	181,492	-	-	-	-	-	-	-	-	-	-	-	-	0.00%
BELARUS	-	-	-	24,614	-	-	-	-	-	-	-	-	-	-	-	-	0.00%
UNITED ARAB EM.	-	-	-	243	-	-	-	-	-	-	-	-	-	-	-	-	0.00%
GRAND TOTAL	**44,569**	**63,504**	**59,870**	**1,525,756**	**127,042**	**109,099**	**115,199**	**124,512**	**131,103**	**135,684**	**169,194**	**185,210**	**145,288**	**153,939**	**152,190**	**1,608,330**	**100.00%**

JAPAN
MEXICO
TURKEY
ITALY
SOUTH KOREA
SPAIN
MALAYSIA
VENEZUELA
GERMANY
CZECH REPUBLIC
RUSSIA
SINGAPORE
BRAZIL
POLAND
ROMANIA
EGYPT
LUXEMBOURG
FRANCE
TAIWAN
LATVIA
TRINIAD & TOB.
DOMINICAN REP
BULGARIA
SOUTH AFRICA
THAILAND
ARGENTINA
CANADA
BELGIUM
EL SALVADOR
CHINA
UNITED KINGDOM
SWITZERLAND
AUSTRIA
UKRAINE
MOLDOVA
BELARUS
UNITED ARAB EM

Doc # 1039984

PUBLIC VERSION

HTS CODE : 7214200000
OTHER BARS AND RODS IRON OR NONALLOY STEEL,
HOT-WORKED, CONCRETE REINFORCING BARS AND RODS

PUBLIC VERSION

GENERAL QUANTITIES IN TONS

COUNTRY	1998 ANNUAL	1999 ANNUAL	2000 ANNUAL	2000 YTD	2001 YTD	2000 OCTOBER	2001 OCTOBER
JAPAN	66,341	231,985	25,355	25,355	300,320	0	50,832
MEXICO	83,320	107,302	46,993	38,429	183,115	4,133	19,613
TURKEY	8,509	41,924	179,296	160,516	164,799	0	20,212
SOUTH KOREA	527,080	423,893	263,602	260,295	118,469	0	0
ITALY	0	0	7,752	0	108,510	0	0
CZECH REPUBLIC	0	0	0	0	101,979	0	0
MALAYSIA	0	0	0	0	85,903	0	22,992
GERMANY	265	102	24,276	24,276	74,186	16,509	6,886
SPAIN	11,030	0	29,756	0	58,432	0	0
RUSSIA	19,122	48,102	35,378	25,562	44,062	7,590	2,033
VENEZUELA	22,168	49,730	29,902	10,804	42,639	10,804	3,395
SINGAPORE	0	11,063	0	0	29,599	0	0
BRAZIL	0	71,168	29,581	29,581	29,246	0	0
EGYPT	0	0	0	0	28,231	0	0
POLAND	53,231	10,681	69,292	69,278	26,884	0	0
ROMANIA	4,792	0	4,182	0	21,881	0	0
FRANCE	0	0	0	0	15,703	0	0
LUXEMBOURG	0	0	0	0	15,281	0	0
TAIWAN	285	342	15,717	5,033	10,904	4,990	10,904
LATVIA	97,002	303,997	207,705	207,705	10,866	0	10,866
TRINIDAD & TOB.	0	497	11	11	10,147	0	0
BULGARIA	0	0	0	0	7,089	0	0
DOMINICAN REPUB	0	0	0	0	6,182	0	6,089
SOUTH AFRICA	5,656	23,270	6,122	0	4,451	0	0
THAILAND	0	0	5,112	1,265	3,827	0	0
ARGENTINA	0	0	0	0	3,364	0	0
CANADA	754	2,983	1,791	1,728	1,371	71	98
BELGIUM	0	0	0	0	1,007	0	0
EL SALVADOR	0	0	1,740	461	108	461	0
CHINA	0	17,547	163,124	163,015	47	0	0
UNITED KINGDOM	11,346	338	0	0	22	0	0
SWITZERLAND	1,201	59	21	21	18	0	18
AUSTRIA	34	37,964	4,646	4,646	0	12	0
BYELARUS	8,592	71,370	24,614	24,614	0	0	0
UKRAINE	797	95,904	168,054	168,054	0	0	0
MOLDOVA	187,271	183,803	181,492	181,492	0	0	0
UNITED ARAB EM.	0	202	243	243	0	0	0
INDONESIA	44,504	69,261	0	0	0	0	0
ALL COUNTRIES	1,153,300	1,803,487	1,525,757	1,402,384	1,508,642	44,570	153,938

SOURCE: U.S. DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS IMPORT STATISTICS
TABLE by TRADE INFLO, 7311-X GROVE ROAD, FREDERICK, MD 21704, (301) 831-4150

HTS CODE : 7214200000
OTHER BARS AND RODS IRON OR NONALLOY STEEL,
HOT-WORKED, CONCRETE REINFORCING BARS AND RODS

PUBLIC VERSION

AVERAGE GENERAL UNIT CIF VALUE

COUNTRY	1998 ANNUAL	1999 ANNUAL	2000 ANNUAL	2000 YTD	2001 YTD	2000 OCTOBER	2001 OCTOBER
UNITED KINGDOM	254.49	223.17	0.00	0.00	1,304.39	0.00	0.00
EL SALVADOR	0.00	0.00	402.55	338.95	1,000.86	338.95	0.00
SWITZERLAND	254.72	1,120.72	1,084.52	1,084.52	982.26	0.00	982.26
BELGIUM	0.00	0.00	0.00	0.00	802.61	0.00	0.00
CHINA	0.00	187.45	218.58	218.50	484.81	0.00	0.00
BULGARIA	0.00	0.00	0.00	0.00	472.50	0.00	0.00
CANADA	502.05	434.49	479.69	484.72	460.42	652.04	380.94
ROMANIA	268.20	0.00	211.94	0.00	283.96	0.00	0.00
GERMANY	830.39	742.39	377.07	377.07	250.85	208.05	189.60
DOMINICAN REPUB	0.00	0.00	0.00	0.00	244.73	0.00	244.65
VENEZUELA	223.36	213.07	221.97	222.80	239.19	222.80	215.75
TRINIDAD & TOB.	0.00	256.11	362.33	362.33	230.14	0.00	0.00
TAIWAN	513.77	334.65	248.33	243.50	230.03	243.22	230.03
EGYPT	0.00	0.00	0.00	0.00	229.55	0.00	0.00
MEXICO	270.45	255.34	258.49	260.11	228.32	271.31	225.01
SINGAPORE	0.00	184.39	0.00	0.00	228.09	0.00	0.00
SOUTH AFRICA	221.81	195.65	216.08	0.00	227.93	0.00	0.00
FRANCE	0.00	0.00	0.00	0.00	221.22	0.00	0.00
CZECH REPUBLIC	0.00	0.00	0.00	0.00	220.69	0.00	0.00
THAILAND	0.00	0.00	234.09	239.55	220.68	0.00	0.00
ITALY	0.00	0.00	226.69	0.00	219.87	0.00	0.00
SOUTH KOREA	256.19	204.22	210.24	209.81	219.22	0.00	0.00
SPAIN	226.15	0.00	251.31	0.00	218.57	0.00	0.00
POLAND	275.23	187.74	198.01	197.96	218.01	0.00	0.00
JAPAN	218.42	210.78	218.98	218.98	217.15	0.00	210.87
LUXEMBOURG	0.00	0.00	0.00	0.00	215.55	0.00	0.00
MALAYSIA	0.00	0.00	0.00	0.00	215.55	0.00	218.13
BRAZIL	0.00	199.48	212.88	212.88	209.91	0.00	0.00
RUSSIA	231.88	177.35	178.47	177.07	204.19	151.72	219.54
LATVIA	341.65	193.66	198.49	198.49	201.31	0.00	201.31
TURKEY	232.08	184.86	211.90	213.94	200.99	0.00	196.35
ARGENTINA	0.00	0.00	0.00	0.00	178.41	0.00	0.00
AUSTRIA	1,241.01	173.97	190.23	190.23	0.00	276.03	0.00
BYELARUS	285.75	199.02	178.27	178.27	0.00	0.00	0.00
UKRAINE	245.60	187.92	197.46	197.46	0.00	0.00	0.00
MOLDOVA	304.15	214.15	208.25	208.25	0.00	0.00	0.00
UNITED ARAB EM.	0.00	336.79	282.42	282.42	0.00	0.00	0.00
INDONESIA	212.70	246.18	0.00	0.00	0.00	0.00	0.00
ALL COUNTRIES	268.18	206.14	212.73	211.29	222.56	213.91	213.34

SOURCE: U.S. DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS IMPORT STATISTICS
TABLE by TRADE INFLO, 7311-X GROVE ROAD, FREDERICK, MD 21704, (301) 831-4150

EXHIBIT 2

 PUBLIC VERSION

American Metal Market December 12, 2001

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American Metal Market

December 12, 2001

SECTION: No. 240, Vol. 109; Pg. 1; ISSN: 0002-9998

IAC-ACC-NO: 81018220

LENGTH: 396 words

HEADLINE: Sheffield seeks Ch. 11 cover after bank balks over credit; Brief Article

BYLINE: Robertson, Scott

BODY:
PITTSBURGH -- **Sheffield** Steel Corp., Sand Springs, Okla., unable to secure support from its chief lender, has filed for Chapter 11 bankruptcy protection, making it the 25th U.S. steel or steel-related company and the 26th in North America to seek such shelter since 1997.

James P. Nolan, president and chief operating officer of **Sheffield** Steel, told AMM Tuesday that the company was unable to make an interest payment to bondholders in July and that market conditions for the bar steel manufacturer weakened to the point where the Chapter 11 filing became necessary.

The Chapter 11 petition was filed Dec. 7 in U.S. Bankruptcy Court in. Tulsa, Okla. The filing also includes subsidiaries Waddell's Rebar Fabricators Inc. and Welling Industries. **Sheffield** Steel had a hearing on the matter scheduled for Tuesday. "We have been fighting to cut costs for the last three-and-a-half to four years, against imports and everything that is going on in the market," Nolan said. "We fought through those costs for a long time."

Some of those costs include high energy prices in Oklahoma. Nolan said that his company s energy costs had risen from about $ 500,000 per month to $ 1.2 million per month during the past couple of years. Those costs, combined with import pressure that brought down steel prices, were key contributors to the filing, but Nolan said that an inability to receive support from lenders was the final straw.

"We have been negotiating with our bondholders (oh the missed payment), but over the past six months we have been under constant and increasing pressure from our bank," Nolan "Without further support from our bank, we had no alternative but to file. To continue to be a viable company, we had to seek protection."

The company was operating normally Monday and Tuesday, and Nolan said he saw no reason for that to change in the near future. "I'm a novice at this, and we're kind of walking our way through it," he said. "But I don't expect things to change for our employees or our customers right now."

Sheffield Steel is manufacturer of special bar quality and merchant bar products with a capacity to produce about 600,000 tons of billets per year. The company, also manufactures concrete reinforcing bars and steel fence posts. It operates a rolling mill in Joliet, Ill., and two fabrication shops in Kansas City, Mo.

PUBLIC VERSION

IAC-CREATE-DATE: December 26, 2001

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Source: All Sources > News > By Individual Publication > A > **American Metal Market**
Terms: **sheffield and date geq (07/04/2001)** (Edit Search)
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EXHIBIT 3

U.S. CONSUMPTION IMPORTS OF STEEL CONCRETE REINFORCING BARS (1996 - 2000; JAN. - NOV. 2001)

	Nov-00	Dec-00	2000	Jan-01	Feb-01	Mar-01	Apr-01	May-01	Jun-01	Jul-01	Aug-01	Sep-01	Oct-01	Nov-01	12 Mo.	% Share
Japan	0	0	25,355	0	0	0	10,460	35,960	46,873	51,754	61,070	43,371	50,832	68,216	368,536	23.84%
Turkey	11,258	7,522	190,687	12,562	17,084	16,042	12,193	25,588	20,806	48,351	0	0	20,212	28,598	208,958	13.51%
Italy	0	7,752	7,752	0	32,936	7,024	21,182	15,613	5,572	0	26,511	105	0	13,743	130,438	8.44%
Korea	0	3,307	266,754	10,353	26,307	29,776	26,070	6,432	19,531	0	0	0	0	0	121,776	7.88%
Czech Republic	0	0	0	0	8,208	36,066	12,329	0	23,347	22,029	0	0	0	0	101,979	6.60%
Malaysia	0	0	0	0	0	0	0	19,123	0	6,758	37,030	0	22,992	4,715	90,618	5.86%
Spain	4,891	24,865	29,765	44,630	0	8,923	0	2,592	0	0	2,288	0	0	0	83,297	5.39%
Germany	0	0	24,276	7,575	0	11,437	5,657	26,656	294	54	5,483	10,142	6,886	650	74,837	4.84%
Venezuela	6,308	13,335	31,151	16,297	3,677	3,569	0	3,528	993	4,770	10,987	0	3,395	8,105	68,655	4.44%
Russia	9,816	0	36,972	2,901	4,591	0	8,896	1,399	14,383	2,222	5,201	2,437	2,033	0	44,062	2.85%
Egypt	0	0	0	0	0	0	28,231	0	0	0	0	0	0	10,838	39,069	2.53%
Romania	4,182	0	9,862	0	8,948	0	0	0	9,508	0	2,385	6,652	0	9,518	37,011	2.39%
Singapore	0	0	0	5,514	0	0	0	0	0	0	0	24,086	0	0	29,599	1.91%
Brazil	0	0	29,617	11,273	7,933	0	7,717	0	0	0	2,323	0	0	0	29,246	1.89%
Poland	0	15	69,292	43	89	94	96	0	9	16,710	0	9,843	0	0	26,898	1.74%
France	0	0	0	0	0	0	0	0	0	15,703	0	0	0	0	15,703	1.02%
Luxembourg	0	0	0	10,414	0	4,867	0	0	0	0	0	0	0	0	15,281	0.99%
Taiwan	10,684	0	15,717	0	0	0	0	0	0	0	0	0	10,904	0	10,904	0.71%
Latvia	0	0	231,872	0	0	0	0	0	0	0	0	0	10,866	0	10,866	0.70%
Trin & Tobago	0	0	11	2,658	1,873	3,307	0	1,219	1,091	0	0	0	0	0	10,147	0.66%
Dominican Rep	0	0	0	0	0	0	0	0	0	0	0	301	6,089	1,245	7,636	0.49%
Bulgaria	0	0	0	0	0	0	0	0	0	0	0	7,089	0	0	7,089	0.46%
South Africa	6,122	0	6,122	0	0	0	4,451	0	0	0	0	1	0	0	4,452	0.29%
Thailand	3,847	0	15,824	0	0	1,081	0	2,746	0	0	0	0	0	0	3,827	0.25%
Argentina	0	0	0	0	0	0	0	0	0	0	3,364	0	0	0	3,364	0.22%
Belgium	0	0	0	0	0	0	0	0	0	0	0	1,007	0	0	1,007	0.07%
El Salvador	655	624	1,740	32	63	13	0	0	0	0	0	0	0	0	733	0.05%
China	109	0	163,124	0	41	0	7	40	0	0	0	0	0	0	88	0.01%
United Kingdom	0	0	0	0	2	0	0	0	0	20	0	0	0	35	57	0.00%
Switzerland	0	0	21	0	0	0	0	0	0	0	0	0	18	0	18	0.00%
Austria	0	0	4,646	0	0	0	0	0	0	0	0	0	0	8	8	0.00%
Ukraine	0	0	184,181	0	0	0	0	0	6	0	0	0	0	0	6	0.00%
Moldova	0	0	193,705	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Belarus	0	0	77,421	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
United Arab Em	0	0	243	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Hong Kong	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Indonesia	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Costa Rica	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Israel	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
TOTAL:	57,872	57,420	1,616,111	124,251	111,753	122,199	137,290	140,895	142,412	168,371	156,641	105,033	134,227	145,672	1,546,164	

Cumulative Percentage Share of Imports of Developing Countries Under 3.00% **14.51%**

Costa Rica, El Salvador, and Trinidad & Tobago are CBERA nations.
Indonesia and Thailand are members of the Association of Southeast Asian Nations (ASEAN)

PUBLIC VERSION

U.S. CONSUMPTION IMPORTS OF HOT-ROLLED BARS AND LIGHT STRUCTURAL SHAPES (1996 - 2000; JAN. - NOV 2001)

	Nov-00	Dec-00	2000	Jan-01	Feb-01	Mar-01	Apr-01	May-01	Jun-01	Jul-01	Aug-01	Sep-01	Oct-01	Nov-01	12 Mo.	% Share
Canada	85,467	68,200	1,154,173	76,879	73,197	82,501	77,331	89,838	78,614	77,051	80,117	73,736	85,694	68,079	931,238	52.20%
United Kingdom	16,984	6,622	226,003	12,403	21,612	11,094	9,635	18,598	12,432	20,462	16,922	15,270	17,767	12,289	175,107	9.82%
Japan	3,700	10,913	158,940	9,236	8,461	10,731	18,104	10,330	10,038	10,286	18,478	14,629	12,685	11,677	145,566	8.16%
Germany	8,176	12,196	124,115	4,974	6,398	6,785	9,284	7,138	4,775	7,469	5,243	3,290	9,507	1,297	78,356	4.39%
Spain	5,991	5,944	55,617	9,418	1,979	2,265	4,770	7,531	4,662	5,217	5,722	3,470	4,468	7,647	63,093	3.54%
Turkey	11,013	5,898	149,961	6,069	3,519	9,890	11	3,781	5,220	1,594	4,906	6,749	4,960	620	53,216	2.98%
Korea	6,072	1,174	98,716	4,231	1,310	3,234	6,395	5,098	5,473	3,072	6,924	7,297	2,537	0	46,744	2.62%
Russia	4,239	6,678	37,070	2,674	51	6,368	895	798	3,054	8,371	5,367	2,529	8,448	0	45,232	2.54%
Italy	1,616	1,147	26,559	1,754	879	4,385	875	7,183	224	2,884	3,782	3,803	275	2,057	29,249	1.64%
France	2,522	1,245	21,341	2,202	2,136	1,952	2,525	1,894	2,450	1,854	2,919	1,682	2,619	2,366	25,842	1.45%
Ukraine	1,713	1,366	22,247	348	233	172	5,865	2,335	8	634	3,375	3,468	263	744	18,809	1.05%
Argentina	2,417	3,042	48,331	1,246	2,569	1,411	858	1,684	2,069	0	2,176	437	1,699	954	18,144	1.02%
Brazil	1,037	648	74,843	2,459	834	678	898	1,848	2,608	813	1,737	1,165	1,990	1,770	17,449	0.98%
Bulgaria	0	0	0	0	0	0	0	0	0	0	0	0	4,468	10,969	15,436	0.87%
Luxembourg	2,134	336	14,532	745	865	6,503	1,204	618	1,329	294	1,466	1,056	9	0	14,426	0.81%
Czech Republic	0	0	8,158	0	3,344	0	0	0	0	0	5,574	0	1,570	3,838	14,326	0.80%
Belarus	4,025	2,455	16,517	0	0	0	3,392	285	0	873	0	4,307	303	0	11,616	0.65%
Netherlands	1,302	1,378	16,164	1,089	115	1,547	1,171	1,110	326	772	605	1,049	726	256	10,144	0.57%
South Africa	0	1,423	27,543	2,513	622	0	0	2	0	0	1,496	1,533	2,542	0	10,130	0.57%
Sweden	774	931	9,659	492	736	1,293	705	671	501	1,027	431	627	856	590	8,859	0.50%
Taiwan	1,425	754	7,593	875	1,612	558	406	614	293	156	285	205	2,004	185	7,946	0.45%
Trin & Tobago	217	0	217	0	0	0	0	917	3,863	0	0	0	2,542	587	7,909	0.44%
Norway	504	769	3,428	1,037	0	1,223	837	110	509	1,646	298	110	0	0	6,539	0.37%
India	407	334	5,727	237	219	480	250	512	373	431	373	253	397	399	4,258	0.24%
Poland	95	38	7,001	2,428	55	49	37	688	21	20	54	24	0	469	3,883	0.22%
China	1,113	53	7,093	49	759	1,283	144	133	220	76	915	113	47	31	3,823	0.21%
South Korea	0	0	0	0	0	0	0	0	0	0	0	0	0	3,570	3,570	0.20%
Belgium	613	1,219	4,672	32	19	26	729	0	23	701	308	37	18	0	3,112	0.17%
Finland	0	781	1,219	0	532	0	0	0	742	0	0	0	0	0	2,055	0.12%
Malaysia	0	0	8,615	0	81	0	41	0	0	0	81	1,791	11	0	2,005	0.11%
Switzerland	55	670	1,503	129	107	78	64	60	52	19	167	167	110	219	1,841	0.10%
Austria	101	49	3,447	95	64	97	85	127	133	37	83	39	120	110	1,039	0.06%
Thailand	0	254	259	0	0	0	0	0	0	0	0	0	563	0	816	0.05%
Slovenia	62	41	603	7	76	122	23	33	74	122	58	4	18	45	623	0.03%
Australia	0	0	285	0	0	0	24	0	0	506	0	0	37	0	567	0.03%
Portugal	0	0	0	0	0	0	0	0	0	0	0	0	0	445	445	0.02%
Dominican Rep	0	0	0	0	0	0	0	0	0	0	0	0	0	220	220	0.01%
Israel	25	0	67	49	21	18	6	25	0	67	0	0	0	0	185	0.01%
Colombia	0	64	82	0	0	0	0	0	0	0	0	0	0	56	120	0.01%
Guatemala	0	22	75	21	0	0	0	0	0	0	0	0	0	0	43	0.00%
Singapore	0	0	30	0	0	0	34	0	0	1	0	3	0	0	37	0.00%
Denmark	0	12	63	1	16	0	5	0	0	0	0	0	0	0	35	0.00%
Tokelau Is	0	0	0	0	0	12	1	0	0	0	0	0	0	0	13	0.00%
El Salvador	0	5	5	0	0	0	0	0	0	0	0	0	0	0	5	0.00%
Indonesia	0	0	495	0	0	0	0	0	0	3	0	0	0	0	3	0.00%
Latvia	0	0	21,759	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Lithuania	0	0	3,250	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Moldova	0	0	225	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
New Zealand	0	0	49	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Ireland	0	0	32	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Hong Kong	0	0	24	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Egypt	0	0	16	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Philippines	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Peru	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Bahrain	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Belize	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Cyprus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Guyana	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Monaco	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Romania	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Senegal	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Venezuela	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00%
Total:	168,799	136,663	2,368,322	143,689	132,415	154,752	146,602	163,961	140,085	146,461	169,862	148,842	169,255	131,488	1,784,075	100.00%

Cumulative Percentage Share of Imports of Developing Countries Under 3.00% **10.75%**

PUBLIC VERSION

Belize, Dominican Republic, El Salvador, Guatemala, Guyana, and Trinidad & Tobago are CBERA nations.

Colombia and Peru are members of the Cartagena Agreement.

Philippines and Thailand are members of the Association of Southeast Asian Nations (ASEAN).

Senegal is a member of the West African Economic and Monetary Union

EXHIBIT 4

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EXHIBIT 5

November 1, 2001

Steel Smugglers Pull Wool Over the Eyes Of Customs Agents to Enter U.S. Market

By Robert Guy Matthews
Staff Reporter of The Wall Street Journal

Save costs.

Advertisement

Manuel Ibanez smuggled 20,000 tons of steel into the U.S. last year. It wasn't difficult.

In one instance, Mr. Ibanez changed the shipping documents on a product called reinforcing steel bar to make it appear that it was part of a shipment of another type of steel called flat-rolled. He figures the ruse saved him $38,000 in import duties.

Multiply that story many times over. In the huge U.S. market for imported steel, most of the metal comes in legally, but there is a steady, lucrative and damaging business in smuggling. Mr. Ibanez says the international metals-trading company he works for, which he declined to name, has evaded "hundreds of thousands of dollars" in duties in the past few years.

Dozens of other small traders use falsified documents and various tricks to regularly smuggle hundreds of thousands of tons of steel into the country, according to industry officials. And the already-troubled American steel industry says it can't afford to compete with products made cheaper by tariff evasion.

Heightened Vigilance

Some relief from the steel smuggling may be emerging, but long-term solutions are unlikely. The heightened vigilance at borders since Sept. 11 may damp smuggling of all sorts for a while. Domestic steelmakers are working hard to persuade President Bush to severely limit imported steel, starting early next year. A drop in imports would give U.S. Customs Service agents more time to scrutinize the shipments that do enter the country. And a recent ruling by the Department of Commerce may help end a longstanding dispute over imported steel that has been chemically altered to fit into a duty-free category.

But for now, a Byzantine tariff structure abets evasion while hobbling enforcement by a Customs force short on staff. Each year, about 38 million tons of steel with a value of between $11 billion and $13 billion enters the U.S. Nearly half of it is subject to tariffs that, under complex and voluminous trade laws, range from pennies to hundreds of dollars a ton. The tariffs are applied to the selling price of the steel in the U.S.

Inspection and Deduction

The amount of the tariff depends on the type of steel product, of which there are close to a thousand, and on the country of origin, of which there are about 100. Computers can help only so much because a lot of the work requires a combination of visual inspection, industry savvy and Holmesian deduction. Many of the products look the same. Low-quality wire rod, which is subject to tariffs, is the twin of high-quality wire rod, which isn't. Often, the only way to distinguish low quality from high quality is by submitting the steel to costly and time-consuming tests in Customs laboratories.

Adding to the domestic industry's frustration is the fact that smuggled doesn't necessarily mean shoddy. Illicit steel is generally the same quality as the domestic product. If bridges aren't collapsing because of substandard steel, it is hard to mount a high-profile campaign citing the damaging effects of smuggled goods. There is also less reason for a guilty conscience among U.S. buyers of the illegal steel.

Slim Risks

"The risk of being caught and the odds of penalties being assessed are slim," says Washington attorney Roger Schagrin, who represents several steelmakers in trade cases. "Trading companies are always going to find some way to get the steel in."

The practice has been going on for years, and the scams are constantly evolving. The American Iron and Steel Institute, a trade and lobbying group for U.S. steel companies, holds several seminars a year to teach U.S. Customs the various ways importers skirt duties. Still, until recently, the industry largely tolerated smuggling because demand was strong and U.S. steelmakers were profitable.

That has changed. The U.S. steel industry is suffering one of its worst slumps in decades. Roughly 25 steelmakers have filed for bankruptcy protection since 1997, including the third- and fourth-largest companies in terms of output. The industry has been pressing the Bush administration for protection while it continues ratcheting up an already heavy volume of trade litigation. More than half the cases before the U.S. International Trade Commission have been filed by steelmakers seeking tariffs and penalties on low-priced foreign steel. They also have enlisted support from the United Steelworkers of America, which sees jobs being lost to foreign steel made cheaper by smuggling and is forming a task force on illegally traded steel.

The U.S. is the most open market for imported steel in the world and a very lucrative one -- qualities that have fostered an entire industry of traders and importers. For the most part, the large importers pay the assessed duty, which then goes into a U.S. Treasury fund. It is the smaller, often fly-by-night trading houses that are more likely to try to slip illegal steel into the country.

They tend to use one of three approaches. The first, demonstrated by Mr. Ibanez, is to falsely reclassify steel that would be subject to a tariff as a duty-free product. Another is to remove indications that the steel came from a country subject to tariffs and make it seem to have come from one that is exempt. A third approach involves changing the chemical composition of a steel product enough so that it can be labeled duty-free.

The scope of the task is evident at the port of Philadelphia, one of the main gateways for foreign steel shipments. Susan Y. Mark, senior import specialist at the port for U.S. Customs, concedes "it's impossible to look at everything that is coming in."

Pointing to two recently arrived ships, the Bright Laker and the Atlantic Fortune, one of Mrs. Mark's agents explained the procedures for nabbing any obviously fraudulent steel before it is unloaded: Look for inconsistencies in paperwork, determine if the steel is under a tax or tariff, and log the information into a centralized U.S. Customs computer. If a product has a quota, they alert all ports that the quota has been affected. Any steel coming in over the quota has to pay a stiff penalty.

No Stamps

In an oil-slicked corner of a steel warehouse, Mrs. Mark pointed to the stamp on a piece of pipe that "tells you that this pipe comes from Russia." But most steel doesn't have such stamps, making it easier to falsify the country of origin on shipping documents, and close inspection of the steel itself is generally impossible, given the volume of product coming in.

Scams often are detected only after a shipment has passed through Customs and a member of the industry becomes suspicious. For instance, the American Wire Rod Producers, a group representing makers of steel-wire rod used in nuts and bolts, recently spotted a red flag in Customs figures detailing how much steel is imported and from which countries. The figures for April, May and June of 2000 showed that about 150,000 tons of high-quality wire rod, not subject to tariffs, had come in from the Ukraine, Moldova, Venezuela, Germany, Turkey and Trinidad and Tobago. That couldn't be, the group said. None of those countries makes high-quality wire rod.

A trader involved in one of the transactions said he used a typical reclassifying scam. The trader said he bought 20,000 tons of low-grade wire rod from a mill in Ukraine. He said the product is subject to a 10% tariff, which in effect makes it unprofitable to sell in the U.S. The trader studied the laws and saw that eight categories of high-grade wire rod didn't have a tariff.

Identity Change

So he changed the classification codes that U.S. Customs uses to identify steel products to say he had high-quality wire rod. The deception, he says, saved him from having to pay $42,000 in tariffs, and he saw nothing wrong with that. He complained that recent trade laws are unfair and that the only way to make any money is by skirting the laws. Indeed, some of the tariffs double the price of each ton of steel. "If I followed all the trade restriction rules made by the U.S., I would never make any money," he said.

Customs didn't know that Ukraine makes only low-quality wire rod, but the American Wire Rod Producers did. Their attorneys sent a letter to Customs officials, who went back to their records, tracked down three importers and fined them.

Customs wouldn't identify the offending companies, but keeps them listed on an internal database so investigators throughout the country can keep an eye out for them. The agency says its procedures do a good job of catching cheaters, but that it's difficult to get all of them. Officials declined to say how many cases have been prosecuted, or how many traders have been fined or had their licenses revoked. "We feel this is a privacy issue," says Ed Goggin, Customs director in Chicago, where the agency's steel-investigation team is based.

Customs inspectors can do little about the steel once it has gotten past them. They can't seize it because often it is already sold and in use. "Customs lets imports in and asks questions later," says Daniel DiMicco, chief executive of Nucor Corp., the country's second-largest steel company.

In the meantime, the people buying the steel get a nice price break. Most of the buyers are small processing centers or small-scale individual buyers. Some buyers might not know that their steel was smuggled in, says Brian Masterson, co-owner of Masterson Metals, a small metals fabricator in Los Angeles. "A big clue would be if the steel is selling for a lot lower than you could get most anywhere else."

John Correnti, chief executive of Birmingham Steel Corp., says it should be obvious to buyers of low-priced steel that it didn't come through the open market. "You can't help but realize that there is a lot of cheating going on," he says.

Birmingham Steel makes reinforced steel bar, or rebar, which is used to strengthen concrete. In the late 1990s, Mr. Correnti and other steel-bar makers began hearing from once-loyal customers that they could get the product much cheaper elsewhere. The producers got the Rebar Trade Action Committee, a lobbying group to look into the situation. The committee studied Customs documents and noticed that during one year in the late 1990s 50,000 tons of rebar came from Austria to U.S. ports, where it was shipped to Seattle and other cities.

That raised a red flag because Austria doesn't export or ship rebar to the U.S. The committee contacted Customs, which took the case from there and eventually fined three of the nine importers. But tracking down these cases can take years, and during that time, the suspect steel continues to arrive at ports and to be bought and shipped across the country, and sold at sharply lower prices.

One battle that began in 1993 shows how difficult it can be to sanction smugglers.

Even though the Department of Commerce determined last January that Canada's Co-Steel Lasco Inc. and Brazil's Gerdau MRM Steel had been slipping carbon plate steel into the U.S. without paying duties for more than eight years, neither company was ever forced to pay up. Co-Steel and Gerdau had been getting around paying duties by adding an extremely minute amount of boron -- 0.0008% by weight -- to the carbon plate steel. The boron didn't affect the character of the steel but did make it chemically different from the carbon plate steel that was subject to duties.

The case spent so long in appeals courts that by the time the Commerce Department completed its ruling, the duty on carbon plate steel, which had been imposed for a five-year period to counteract dumping, had expired.

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EXHIBIT 6

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